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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(San Joaquin)

In re Ka.V. et al., Persons Coming
Under the Juvenile Court Law.

SAN JOAQUIN COUNTY HUMAN SERVICES
AGENCY,

Plaintiff and Respondent,

v.

A.S.,

Defendant and Appellant.

C058769

(Super. Ct. Nos. J03941,
J04512)

Appellant, father of the minors¹, appeals in pro per following a proceeding at which a placement hearing was continued.² (Welf. & Inst. Code, § 395 [undesignated statutory

¹ Appellant's notice of appeal names only Ka.V. and her sibling Ke.V., who died prior to the filing of the notice of appeal, as the subjects of this appeal.

² Although appellant's notice of appeal identifies numerous other proceedings, we dismissed his appeal as untimely with regard to hearings occurring prior to this one, and as from a nonappealable order with regard to a subsequent hearing at which

references are to the Welfare and Institutions Code]; *In re Melvin A.* (2000) 82 Cal.App.4th 1243, 1251 [continuance of section 366.26 hearing is an appealable order].) Appellant, who was incarcerated in Texas at the time of the hearing, claims his due process rights were violated because he was not transported to California for hearings and purportedly did not receive notice of several hearings. He also maintains he received ineffective assistance of counsel, that certain reports were "changed," and that the juvenile court abused its authority by "order[ing] [him] out of [his] home" and "us[ing] entrapment to take custody of [his] children."³ We shall affirm.

FACTUAL AND PROCEDURAL BACKGROUND

In June 2005, a dependency petition was filed regarding one-year-old Ka.V. and her twin sibling, Ke.V., which, as later amended, alleged that the children's mother (who was pregnant) used marijuana daily and her home was "filthy" and unsafe. Appellant was declared the presumed father of the children.

The mother gave birth to another child--A.S.--in November 2005, and a petition concerning that child was filed as well,

the placement issue was withdrawn and the section 366.26 hearing was reset.

³ Appellant also accuses the juvenile court of covering up evidence that one of the minors was molested while in foster care and asks that an investigation be undertaken into "corruption" in the juvenile court, San Joaquin County Human Services Agency (Agency) and the attorneys representing parties in dependency cases. Appellant does not cite any evidence in the record to support his claims in this regard (see Cal. Rules of Court, rule 8.204(a)(2)(C)), nor are they relevant to the issues addressed at the hearing from which he appeals.

which included an allegation that appellant had been convicted of sales of a controlled substance the previous month.

The parents were present at the jurisdictional hearing, at which the juvenile court found the allegations in the petition true. At the dispositional hearing, the court adopted the social worker's recommendations, which included reunification services for appellant and the mother. The following month, A.S. was returned to the parents' care.

At a review hearing in January 2007, the juvenile court ordered that Ka.V. and Ke.V. could be returned to the mother, as long as appellant was not present in the home until he completed an anger management program.

Three weeks later, a supplemental petition was filed after the mother left the children with appellant when she was arrested on a warrant, and there were indications that appellant had been residing in the home. An initial petition also was filed on a fourth child--three-month-old T.S.--which contained additional allegations that the parents failed to comply with the juvenile court's order to turn the minors over to the Agency and their whereabouts were unknown.

In March 2007, the juvenile court sustained the allegations in the newest petitions. Prior to the dispositional hearing, a subsequent petition was filed after the parents were located in Texas, where they had been taken into custody on charges related to Ke.V.'s death from blunt force trauma. In September 2007, the juvenile court sustained the subsequent petition and continued the matter for a dispositional hearing.

The parents remained incarcerated in Texas, with appellant awaiting trial for murder in Ke.V.'s death. At the dispositional hearing in October 2007, the mother's former foster mother testified regarding her willingness to accept placement of the minors. At the conclusion of the hearing, the juvenile court denied further reunification services and set the matters for a hearing pursuant to section 366.26 to select and implement a permanent plan for the minors. The matters were also continued for further proceedings on the issue of placement. Notice of the hearing and a "notice of intent to file writ petition packet" were sent to appellant.

At a hearing on April 9, 2008, appellant appeared by telephone, and his attorney requested a continuance of the placement review in order to confer with him. The matters were continued to April 18, 2008.

On April 18, 2008, the placement issue was withdrawn and the section 366.26 hearing was reset. Notice of the section 366.26 hearing and a "notice of intent to file writ petition packet" were mailed to appellant.

DISCUSSION

At the hearing from which this appeal is taken, appellant's request for a continuance of the section 366.26 hearing was granted. Appellant appeared by telephone and was represented by counsel. None of his claims directly pertains to the juvenile

court's orders at this hearing. Consequently, for the most part, these claims are foreclosed.⁴

Appellant claims his due process rights were violated because he was not transported to California for hearings. He is incorrect. "'In dependency cases, as in other civil cases, personal appearance by a party is not essential; appearance by an attorney is sufficient and equally effective.'" (*In re Jesusa V.* (2004) 32 Cal.4th 588, 602, quoting *In re Axsana S.* (2000) 78 Cal.App.4th 262, 269.)

Appellant also complains that hearings occurred "that [he] was never made aware of." Appellant does not specify which hearings occurred without notice to him. In any event, appellant appeared by telephone at the hearing in question and did not object to the notice he had been provided thus far. "In dependency litigation, nonjurisdictional issues must be the subject of objection or appropriate motions in the juvenile court; otherwise those arguments have been waived and may not be raised for the first time on appeal." (*In re Christopher B.* (1996) 43 Cal.App.4th 551, 558.) By appearing and raising no objection to the purported notice defects, appellant has waived the issue. (*In re Lukas B.* (2000) 79 Cal.App.4th 1145, 1152; *In re Joseph E.* (1981) 124 Cal.App.3d 653, 657.)

⁴ Although we dismissed appellant's appeal from the subsequent hearing, the same conclusion applies with regard to the orders made at that hearing.

Appellant maintains he received ineffective assistance of counsel at the "trial [that] was supposed to be for placement of [his] children, but turned into allegations being made against [him]." Again, appellant does not identify with any specificity which hearing his claim relates to, and although allegations against appellant as well as placement issues were addressed at several hearings since the initiation of dependency proceedings, neither issue was the subject of the hearing from which he now appeals. Appellant may not raise issues from hearings as to which his notice of appeal was untimely.

We reach a similar conclusion with regard to appellant's complaints that the juvenile court abused its authority by "order[ing] [him] out of [his] home" and "us[ing] entrapment to take custody of [his] children." Appellant did not file an appeal following the hearing at which the court ordered return of the children to their mother and may not raise these claims at this juncture.

Finally, appellant asserts: "Reports from the years of 2005[] and 2006 have been changed in order to be consistent with the criminal case . . . in Texas." He does not support this claim with any cites to the record, which was provided to him by his previous appointed appellate counsel. (See Cal. Rules of Court, rule 8.204(a)(1)(C); *In re Joseph E.*, *supra*, 124 Cal.App.3d 653, 657 [statements in appellate briefs must be supported by an appropriate reference to the record].) Nor does appellant explain the relevance of this claim to any issue

before us in this appeal, and we fail to discern any.
Accordingly, we reject this claim as well.

DISPOSITION

The juvenile court's order is affirmed.

SIMS, J.

We concur:

BLEASE, Acting P. J.

BUTZ, J.